



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 12

April 18, 1995

No. 14

CONTENTS

House Week in Review.....2

Bills Introduced:

"Substantive" Bills.....3

"Skeleton" Bills.....20

S. C. STATE LIBRARY

MAY 1 1995

STATE DOCUMENTS

OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

Legislative Update, April 18, 1995

House Week in Review

The past House week, shortened by 1 day because of the Easter holiday, was dominated by a large number of bill introductions. While bills may be introduced in the House and referred to committee until the end of the session, House Rule 5.12 prohibits, with only limited exceptions, any statewide bills or resolutions introduced in the House after April 14 from being placed on the House Calendar for further consideration this year unless two-thirds of House members present and voting agree to waive the rule. (Bills introduced in the Senate must be received in the House prior to May 1 in order to avoid the 2/3 requirement, while House bills must get to the Senate prior to May 1 to meet that chamber's bill introduction deadline.) Consequently, a huge volume of bills were read across the desk by the House reading clerk this past week---over 150 overall (including nearly 140 on Wednesday, April 12 the final day the House met in statewide session prior to the April 14 deadline). To date, over 1,100 bills and resolutions have been introduced in the House during the 1995 session, with a month and a half remaining until the mandatory adjournment date of Thursday, June 1.

Debate on a bill (H. 3915) to restructure the Commission on Higher Education received further delay this past week. A motion to table the bill had failed on Thursday, April 6, but on Tuesday, April 11, the House voted to delay further consideration of the bill until Tuesday, April 18.

On Wednesday, the House gave approval to H. 3535, a bill requiring the Family Court to bound over to Circuit Court (for purposes of trying a child as an adult) a child age 14 or older if he is charged with an offense which, if committed by an adult, would carry a sentence of 10 years or more and the child had two prior adjudications or convictions for offenses carrying that same sentence. Also that day, the House gave its approval to the conference committee report on H. 3361, a joint resolution to make approximately \$38.8 million in supplemental appropriations from Fiscal Year 1993-1994 surplus revenues.

Legislative Update, April 18, 1995

Bills Introduced

As noted earlier, a very large number of bills were introduced last week in the House to meet the April 14 deadline for bill introductions. Thus Update divides bills introduced last week into two sections---"substantive" bills (i.e., bills containing more than just the title, with detailed provisions) and "skeleton" bills (these being bills with only a title, but without details). "Substantive" bill summaries begin immediately below this paragraph, while a listing of "skeleton" bills can be found beginning on page 20 of this Update. Please note that because of the large volume of bills introduced last week, not all could be summarized for this week's Update.

(1) SUBSTANTIVE BILLS

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

Department of Natural Resources No Longer Required To Give Preference to Residents of a Particular County for Purposes of Hiring Enforcement Officers (H. 4033, Rep. Wilkins). Current law requires the Department of Natural Resources, when employing enforcement officers within a particular county, to give preference in hiring to persons meeting the minimum employment qualification requirements and who reside within that particular county. This bill deletes this hiring preference and instead requires the Department to employ the most qualified applicants (regardless of county of residency).

Liens on Property for Which Service Charges for Solid Waste Collection and Disposal Have Not Been Paid (H. 4100, Rep. Thomas). Current law allows a county governing body to impose service charges against persons for whom the county provides solid waste collection. This bill would allow the county to levy a service charge for disposal of solid waste and would also provide that in case of a delinquent service charge for this solid waste collection and disposal, the county may by ordinance provide that the service charge becomes a lien upon the real estate of the person owing the service charge. This lien would be collectable in the same manner as county taxes.

Legislative Update, April 18, 1995

EDUCATION AND PUBLIC WORKS

Transfer of License Plates (H. 3994, Rep. McTeer). This bill allows a license plate to be transferred from one individual to another individual upon application to the Department of Revenue and taxation and payment of a \$3 fee.

No Vehicle Registration Fees for Persons Age 65 or Older or Who Are Handicapped (H. 4006, Rep. Keyserling). This bill exempts persons age 65 or older or who are handicapped from paying a biennial registration fee for a private passenger-carrying vehicle. These provisions also exempt persons age 65 or older also are exempt from paying a biennial registration fee for a property-carrying vehicle, provided that vehicle has a gross weight of no more than 5,000 pounds.

Size of Board of Trustees of the University of South Carolina Expanded (H. 4046, Rep. Rogers). This bill would make the student government president of the University of South Carolina-Columbia Campus an ex-officio member of the USC Board of Trustees. This new ex-officio member would serve on the board for as long as his active term of office as student government president.

Construction of Bus Shelters (H. 4062, Rep. Haskins). This bill allows bus shelters to be constructed and maintained within rights-of-way of public roads by municipalities, counties, public transit systems or any person specifically authorized to do so by the entity having jurisdiction over the rights-of-way. Any bus shelter located within the right-of-way of a state or federal aid primary road must comply with all requirements of the Department of Transportation and applicable federal laws and rules, while such shelters located within rights-of-way of other roads (i.e., those roads not state or federal aid primary roads) must comply with applicable requirements of the county or municipality within which the shelter is to be located.

Use of Public School Equipment To Lobby General Assembly or Other Governments Prohibited (H. 4084, Rep. Klauber). This bill prohibits school or school district faculty, staff or students from using public school and school-district equipment and supplies (such as school/school district stationery and electronic communications) to lobby any state official or agency, including any member of the General Assembly, or any political subdivision of South Carolina. These provisions, however, do not prohibit a public school principal, school district superintendent or board member from using these supplies and equipment to contact state agencies, officials or political subdivisions to express an opinion or request action with regard to any legislation, ruling, etc. or other official action or decision of the state agency, official or political subdivision. Before the principal or other educational official uses these supplies and equipment for such purposes, however, he must have the permission of the school district

Legislative Update, April 18, 1995

governing board or of the political subdivision which appropriates the school district's annual budget.

Requirements for Public School District To Enter Into Guaranteed Energy Contract (H. 4085, Rep. Keyserling). This bill prohibits a public school district from entering into a guaranteed energy contract unless the Department of Education's Office of District Facilities Management has provided written certification that the vendor of guaranteed energy savings programs was selected in accordance with procurement procedures approved by that Office's director. The bill also revises the definition of "energy conservation measure" as pertains to guaranteed energy savings contracts under the State's Energy Efficiency Act, so as to mean a program or alteration reducing energy consumption or energy costs (as currently opposed to operating costs).

Governor May Provide for Designee on Citadel's Board of Visitors (H. 4096, Rep. Fulmer). This bill allows the governor, who currently serves as a member of the Citadel Board of Visitors, to appoint a designee to represent him on behalf of the board. This designee must be a graduate of the Corp of Cadets.

Program of Intensive Reading Instruction for 3rd Grade Students With Certain Test Results (H. 4122, Rep. Moody-Lawrence). This bill requires 3rd grade students, if results on standardized tests taken in that grade year indicate the student is at least 6 months behind the nationwide norm for students of their age or grade, to be given and successfully complete a program of intensive reading instruction before being promoted to the 4th grade. This instruction must be separate from any other available remedial programs and may be given during or after regular school hours, or during a summer schedule. This requirement, however, does not apply to students with documented learning disabilities in reading. The State Department of Education is required to specify the content of this program of intensive reading instruction.

Pole Trucks and Trailers Must Contain Certain Equipment (H. 4123, Rep. Moody-Lawrence). This bill requires every pole truck or trailer to be equipped with a strip of light reflecting paint, tape or reflectors on the external sides of the pole support frame or bolsters, or both.

Representatives of Certain State Departments Must Visit Secondary Schools Which Serve High-Risk Students (H. 4124, Rep. Moody-Lawrence). This bill requires representatives of the Departments of Youth Services, Mental Health, and Health to visit secondary schools of South Carolina which serve high-risk student populations. These visits must be made 1 full day each month during the school year to provide services and consultations in each department's particular areas to interested students. The State Department of Education must determine those secondary schools that serve high-risk student populations.

JUDICIARY

County and Municipal Voters May Propose Ordinances Appropriating Money or Levying Taxes (H. 3982, Rep. Rogers). This bill deletes provisions which currently prohibit county and municipal voters from proposing and voting on ordinances appropriating money or authorizing the levy of taxes.

Jail and Prison Inspection Program Abolished (H. 3983, Rep. Rogers). This bill abolishes the State's Jail and Prison Inspection Program, currently handled by the Jail and Prison Inspection Division of the Department of Corrections.

Judicial Merit Selection Panel (H. 3986, Rep. Neal). This bill establishes a Judicial Merit Selection Panel to assist the General Assembly in selection of qualified justices and judges for vacancies in the Supreme Court, Court of Appeals, Circuit Court, Family Court and the Administrative Law Judge Division. Implementation of these provisions is contingent on ratification of a constitutional amendment authorizing establishment of this panel (as summarized under H. 4003 in this Update), and if adopted would apply to judicial vacancies occurring after 1997.

This panel would consist of 12 members, as follows:

---6 members from congressional districts (1 from each of the state's 6 districts), appointed by a majority of legislators representing each particular district;

---2 members appointed by the Speaker, and 2 members appointed by the Senate President Pro Tempore; and

---2 members appointed by the governor, with 1 appointment being upon recommendation of the State Bar and 1 appointment being upon recommendation of the South Carolina Black Lawyers Association.

Panel members serve 4-year terms, may not serve consecutive terms, and are ineligible for nomination, election or appointment as a justice of judge of a court for which the panel makes nominations while serving on the panel and for 3 years after ceasing to be a panel member.

The panel is responsible for determining when vacancies are to occur on these 5 courts (i.e., 5 courts listed in first paragraph of this summary) and to investigate the qualifications of persons seeking nomination by the panel. (For purposes of these provisions, "vacancy" includes expiration of the term of an incumbent judge, creation of a new judicial seat on 1 of these 5 courts, or removal of a judge prior to completion of his current term because of death, retirement, etc.). The bill requires the state court administrator to notify each justice and judge whose term of office expires during a particular year of this fact by July 1 of the preceding year; unless the justice or judge notifies that administrator within 30 days after receipt of the notice that he is not seeking re-election, he is considered a candidate to succeed himself. The bill requires the panel to notify the Supreme Court, the State Bar, and others when there is a judicial vacancy.

Legislative Update, April 18, 1995

Persons seeking nomination as a justice or judge must apply with the panel for consideration, with applicants required to give the panel a general waiver allowing it to obtain whatever information the panel considers necessary to make an informed judgment of the applicant's qualifications. In examining an applicant's qualifications, the panel must examine, among other things, the applicant's integrity, knowledge of the law, experience and judicial temperament. The bill also provides for holding of public hearings at which persons may testify concerning an applicant but allows a public hearing to be waived if there is no known opposition to an incumbent seeking re-election, no substantial reason to hold a hearing, and a hearing is not requested by at least 10 House members and 5 Senators. Furthermore, the panel may go into executive session to interview the candidate and other persons concerning candidate qualifications.

In discharging its duties, the panel may administer oaths and affirmations, take dispositions and issue subpoenas to compel attendance of witnesses and production of papers and other information. No person is excused from appearing or testifying before the panel, or producing information for it on grounds that meeting such request may tend to incriminate him or subject him to a penalty of forfeiture, although that person cannot be prosecuted or subjected to criminal penalty based upon his testimony or evidence, or to forfeiture, after claiming his privilege against self incrimination. With limited exceptions, records and other information the panel uses or obtains in its investigation must be kept confidential.

Following investigation of candidate qualifications, the panel must submit nominations to the General Assembly for candidates seeking election to any of the 5 courts. The panel must submit the names of at least 3 candidates whom it considers best qualified for the judicial office under consideration, although if the panel concludes that fewer than 3 are qualified for a vacancy, only the names of those determined qualified are to be submitted to the General Assembly. The panel's nominations for any judgeship are binding on the General Assembly, with legislators prohibited from electing a person not nominated by the panel; however, legislators may reject all persons nominated, in which case the panel must submit further nominations. The name of an incumbent justice or judge seeking re-election must be forwarded to the General Assembly by the panel if the latter finds the incumbent qualified; but if the panel finds the incumbent not qualified, his position becomes vacant and the panel must submit further nominations. If the panel forwards the name of the incumbent to the General Assembly, the panel also may submit at least 2 additional nominations for that post. If legislators vote against retention of the incumbent justice or judge, then the panel must submit further nominations for that post.

The bill also contains several provisions concerning legislators seeking these judicial posts and pledging restrictions. Sitting legislators must first resign their position before applying with the panel for a judgeship, and no member of a family within the 2nd degree of a sitting legislator, or a partner or associate of his law firm, may submit an

Legislative Update, April 18, 1995

application with the panel for nomination or be elected to a judicial office. A former legislator may not be granted the privilege of the floor of the General Assembly while his application is pending before the panel and while their nomination is pending before the General Assembly. Aside from letters of introduction, persons may not seek the pledge of a legislator's vote, and a legislator may not offer such a pledge, until the panel has examined qualifications of candidates and submitted nominees for the judicial vacancy to the General Assembly.

Suspension of Sentences of Persons Found in Contempt of Court for Violation of Child Support Orders (H. 4001, Rep. Neilson). This bill allows the Family Court to suspend the sentence of a person found in contempt of court for violating a court or administrative order for payment of child support. The court also may order that person to perform community service for a time as determined by the court. If that person is eligible for compensation for performing this community service, then such compensation must be withheld for payment of child support.

Establishment of Judicial Merit Selection Panel (H. 4003, Rep. Neal). This proposed constitutional amendment requires the General Assembly, by law, to establish a Judicial Merit Selection Panel to consider the qualifications and fitness of candidates for justices and judges of courts filled by election of the General Assembly (Supreme Court, Court of Appeals, etc.) The General Assembly must elect justices and judges from among the nominees of the panel to fill a court vacancy, although under this proposal legislators may reject the panel's nominees and require further nominations. If two-thirds of the House and Senate agrees to these provisions, then this proposed constitutional amendment would be submitted to the voters for approval at the November 1996 general election.

Popular Election of Circuit Court Judges (H. 4004, Rep. Neal). South Carolina currently has 16 judicial circuits, with the population of each circuit varying widely (the smallest circuit, according to the 1990 U.S. Census, had a population of approximately 109,000, while the largest one had a population of nearly 424,000). Under this proposed constitutional amendment, however, the number of circuits would increase to 46 (the same number as there are Senate districts), with circuits being of the same size as Senate districts. These circuit judges also would be elected by the voters of each respective circuit (e.g, voters of 1st circuit would elect the judge for that circuit, voters of 2nd circuit would elect the judge for the 2nd circuit, etc.). This proposal also deletes authorization for at-large circuit judges; provides that circuit judges serving in office at the time these provisions become effective would continue to serve the term for which they had been elected by the General Assembly; and allows legislators to stagger the terms of these judges.

If adopted by the General Assembly (requires two-thirds affirmative approval of each chamber), this proposed constitutional amendment would be submitted to the voters at the November 1996 general election.

Legislative Update, April 18, 1995

Unlawful To Engage in Practice of Counseling or Marital and Family Therapy without Being Duly Licensed (H. 4016, Rep. Mason). This bill prohibits a person from engaging in the practice of counseling or marital and family therapy unless licensed (1) in accordance with the State's "Professional Counselor, Associate Counselor and Marital and Family Therapist Licensing Act", or (2) under other provisions of state law, and the license authorizes such practice. Violation of these provisions is a misdemeanor, punishable upon conviction by a fine of up to \$10,000 and/or imprisonment for up to 3 years.

Persons May Be Imprisoned for Failing To Satisfy Judgments Against Them in Civil Actions Rendered in Magistrate's Court (H. 4019, Rep. Simrill). This bill provides that anyone failing to satisfy a judgment against him in a civil action rendered in magistrate's court within 60 days after the action has been filed and docketed in Circuit Court may be punished by imprisonment not exceeding 60 days. These provisions are in addition to any other remedies authorized by law for failing to satisfy the judgment. The bill also grants to magistrates jurisdiction for purposes of imposing this punishment.

Procedures To Be Followed When Investigating Reports of Alleged Abuse or Neglect (H. 4024, Rep. Davenport). This bill requires the Department of Social Services (DSS), upon contacting the alleged perpetrator in a report of alleged abuse or neglect, to inform the person of his rights under the law, including the right to be represented in the matter by an attorney. When investigating a report of alleged abuse or neglect, DSS may not contact a family member of the subject of the report if that family member is under age 18, unless consent is granted by the child's parent, custodian or guardian. Furthermore, following such investigation of a report of alleged abuse or neglect, if DSS or the court determines the allegation to be unfounded, then the court may award attorney's fees to the alleged perpetrator.

Establishment of Task Force to Study South Carolina's Child Abuse and Neglect Laws (H. 4025, Rep. Davenport). This joint resolution establishes a House task force to study South Carolina's child abuse and neglect laws and make recommendations to the House on statutory, policy or procedural changes to improve and enhance the child protection system and its impact on families. This task force consists of 7 House members, all appointed by the Speaker. In conducting this study, the task force must evaluate the impact of investigation and prosecution procedures on families; whether such procedures are carried out equitably; and whether the current system erodes or strengthens the stability and well-being of families. The task force also must identify resources (public and private) for families impacted by abuse and neglect and for families with children with mental or emotional problems. The joint resolution requires the task force to submit a report and its recommendations to the House by January 15, 1996, at which time the task force is dissolved.

Legislative Update, April 18, 1995

False Reports of Abuse and Neglect (H. 4026, Rep. Davenport). This bill makes it a misdemeanor, punishable upon conviction by a fine not exceeding \$1,000 and/or imprisonment not exceeding 6 months, for a person to knowingly make a false report of abuse or neglect. Additionally, that person is liable for actual and punitive damages in an action for intentional infliction of emotional distress. The bill also subjects the Department of Social Services (DSS) to a civil fine of up to \$10,000 if it vigorously pursues the investigation or prosecution of a report of alleged abuse or neglect when DSS knew or should have known that the report was false, and additionally subjects DSS to liability for actual and punitive damages in an action for intentional infliction of emotional distress.

Family Court May Not Order Payment of a Child's Postsecondary Educational Expenses (H. 4031, Rep. Meacham). Current law requires orders for child support to run until a child turns age 18, except that such orders may be extended beyond that age if the child continues to have a physical or mental disability or if there are other exceptional circumstances warranting extended support. This bill would prohibit the court from ordering a parent to pay for a child's postsecondary educational expenses.

Register To Be Prepared on Persons Released On Their Own Recognizance (H. 4032, Rep. Meacham). This bill requires each county's clerk of court to prepare a register containing information regarding the cases and defendants who are released on their own recognizance, with this register to be available for public inspection. The register must be updated each month and must contain information for each defendant released on his own recognizance, as follows: (1) charge against the defendant; (2) prior criminal convictions; (3) required court appearances; (4) missed court appearances; and (5) bench warrants issued.

Furthermore, each clerk of court, during the first quarter of the calendar year, must submit an annual report to the Office of Court Administration for the previous calendar year, with this report listing the number of cases in which a:

- (1) release on a person's own recognizance was denied;
- (2) defendant was released on his own recognizance and {a} a bench warrant was issued subsequently on the defendant's failure to appear before the court; {b} a bench warrant was issued by the court but remained unserved for over 1 year; and {c} a warrant was issued for his arrest after his release for additional charges within 1 year.

The Office of Court Administration must compile this information concerning a person's release on his own recognizance of denial of some release and issue an annual report, with a copy of this report submitted to the General Assembly and the Governor.

Members of House of Representatives Placed Under Jurisdiction of State Ethics Commission (H. 4045, Rep. Rogers). This bill places House members under the jurisdiction of the State Ethics Commission.

Legislative Update, April 18, 1995

Restrictions on Sale of Refrigerated or Chilled Beer or Wine (H. 4063, Rep. Haskins). This bill makes it unlawful for a business establishment which sells gasoline or other motor fuels and also possesses a permit to sell beer and wine to sell (1) refrigerated or chilled beer or wine, or (2) fewer than 6 separate containers of beer to 1 customer. A person violating these provisions is guilty of a misdemeanor, punishable upon conviction by imprisonment not exceeding 30 days or a fine not exceeding \$200. Furthermore, following conviction, the affected establishment's permit to sell beer and wine must be revoked.

Carrying of Weapons (H. 4067, Rep. D. Smith). This bill lists circumstances under which a person may carry a weapon, whether concealed or nonconcealed, on himself. Examples of persons permitted to carry weapons include, among others, members of clubs organized for purpose of target shooting or collecting certain firearms; persons at their home or place of business; or persons in a vehicle where the weapon is secured in a closed glove compartment or closed trunk. The bill requires certain persons (such as persons in their homes, etc.) to obtain permits from SLED to carry weapons on themselves. The bill also expands the definition of "weapon" for the purpose of various weapons violations to include a dirk, slingshot, metal knuckles or razor.

Other provisions of this bill are as follows:

---Toughens penalties for pointing a firearm at another person, such that a person convicted of this offense must be fined not more than \$5,000 or imprisoned not more than 20 years (current penalties for that offense are a fine at the discretion of the court or imprisonment of not more than 5 years).

---Expands prohibition against possessing weapons in schools, institutions of higher learning or publicly-owned buildings so as to also prohibit such weapons possession in areas designated as the grounds surrounding the buildings. Also prohibits weapons from being carried into a privately-owned entity (building, business, etc.) and into areas or grounds surrounding the buildings without the express permission of authorities in charge of the buildings.

---Requires person convicted of the felony of unlawfully carrying a weapon into or around a public or private building to be fined not more than \$5,000 and imprisoned not more than 5 years (currently, a person convicted of unlawfully bringing a weapon into an educational institution or publicly-owned building must be fined not more \$5,000 or imprisoned not more than 5 years, or both fined and imprisoned.) Expands the current prohibition against displaying or threatening others with a weapon in a public building, so as to also include private buildings, and toughens the penalty for this violation (current penalty is maximum of \$5,000 fine and/or 5 years in jail), so that a person convicted of that violation must be fined not more than \$5,000 and imprisoned not more than 15 years.

Legislative Update, April 18, 1995

---Makes it unlawful for a person to discharge firearms on or into public streets, highways or other property not owned by a person, except that licensed hunters or fishermen (while hunting or fishing on property owned by other persons) may discharge a firearm on that property with the owner's permission. A person violating this prohibition, upon conviction, must be fined not more than \$5,000 and/or imprisoned not more than 30 years, with this also being the new penalty for unlawful discharge of firearms in a building (such as a dwelling house) regularly occupied by persons (current penalty for unlawful discharge in those dwellings is maximum fine of \$1,000 and/or imprisonment not exceeding 10 years). The prohibition against discharge of these firearms, however, does not apply to law enforcement officers and others acting in the line of duty, nor is it to be construed to abridge the right of self defense.

Appraisal of Condemned Residential Property (H. 4070, Rep. Inabinett). Currently under the State's Eminent Domain Procedure Act, prior to initiation of a condemnation action, the condemnor must ensure that the property is appraised, so as to determine the amount that would constitute just compensation for its taking. This bill provides that in cases involving appraisal of owner-occupied residential property, the appraisal must be the value determined by the condemnor's appraiser or 125 percent of the property's appraised value as determined by the local tax assessor (whichever figure is greater).

Abolishment of South Carolina Mental Health Commission (H. 4074, Rep. McElveen). Under current law, the State Department of Mental Health is governed by a 7-member commission, with commission members appointed by the governor with the advice and consent of the Senate. This bill would abolish the commission and transfer its powers and duties to the State Director of Mental Health, who must be appointed by the governor with the advice and consent of the Senate and who is subject to removal by the governor at the latter's discretion (i.e., without cause).

Persons May Practice Law without Paying License Fee or Being Member of State Bar (H. 4087, Rep. Govan). Under these provisions, anyone who, except for payment of a license fee, otherwise meets the requirements to practice law in this State as prescribed by the State Supreme Court, is not required to pay the license fee or be a member of the South Carolina Bar in order to practice law in this State.

Campaign Expenditure Limits (H. 4092, Rep. Hodges). This bill prohibits a candidate from expending an amount exceeding 50 cents for each person residing in the district from which he is elected, based on the latest population figures of the U.S. Decennial Census.

Candidates for Judicial Offices Filled by Legislative Election Must Refrain from Visiting State Capitol Complex (H. 4093, Rep. Hodges). This bill prohibits candidates for judicial offices filled by election of the General Assembly from visiting the State Capitol Complex to meet members and campaign for office until the legislative screening committee issues its

Legislative Update, April 18, 1995

report on the qualifications of the candidates for the judicial offices the candidates seek. Violation of this "no visitation" policy may be considered by the screening committee when examining a judicial candidate's qualifications. This visitation restriction, however, does not apply to appointments at the State Capitol Complex initiated and requested by legislators for the purpose of meeting or discussing various matters with the judicial candidates.

No Changing of Certain Contracts by Oral Agreement (H. 4094, Rep. Hodges). Under these provisions, if a written contract or agreement specifically provides that it can be changed, modified or superseded only in writing signed by the parties, then that contract or agreement cannot be changed, modified or superseded by an oral contract or agreement.

Supreme Court Must Establish Data Base So Public May Obtain Information on Disciplinary Action Taken Against Judges or Attorneys (H. 4105, Rep. Neilson). This bill requires the Supreme Court, by rule, to establish within the Judicial Department a centralized data base where members of the general public may obtain information which is available to the public concerning grievances or disciplinary actions taken against any judge of a court of this State or attorney-at-law licensed to practice in South Carolina.

Joint Committee to Screen Incumbent Judges (H. 4111, Rep. L. Whipper). Current law provides for an 8-member joint legislative judicial screening committee to examine the qualifications of candidates seeking judicial posts elected by the General Assembly (Supreme Court, Court of Appeals, etc.). This bill would establish a 3-member joint committee to examine qualifications of an incumbent judge seeking re-election to his same post, along with qualifications of any other candidates for that judicial office. Of the committee's 3 members, 2 must be retired justices of the Supreme Court or retired judges of the Court of Appeals or Circuit Court, appointed by the Chief Justice of the Supreme Court, 1 member must be a sitting justice of the Supreme Court or a sitting judge of the Court of Appeals or Circuit Court, also appointed by the Chief Justice; however, the sitting judge may not be serving on the same court as the incumbent judge who is being reviewed. When the incumbent judge seeking re-election is the Chief Justice, then the joint committee members must be appointed by the senior associate justice of the Supreme Court. The 3-member joint committee must conduct the review in the same manner that other joint legislative candidate reviews are conducted, and this committee must find the incumbent judge and other candidates either "qualified" or "not qualified" for re-election or election to that judicial office.

Firearms Permits for Private Detectives (H. 4116, Rep. Easterday). Current law allows SLED to grant firearms permits to persons licensed in accordance with the State's Detective and Private Security Agencies Act, with the exception that such permits may not be granted to persons registered as private detectives. This bill would delete the prohibition against issuance of these permits to registered private detectives.

Legislative Update, April 18, 1995

Location of Video Poker Machines Near Houses of Worship (H. 4125, Rep. Harrison). Current law prohibits video poker machines from being located within the following distances of a house of worship: 300 feet (if within a municipality) or 500 feet (if within a county). This bill provides that for purpose of this distance restriction, the distance from a machine to a house of worship must be measured from the main entrance door of the location containing the machine(s) to the main entrance door of the house of worship.

Popular Election of Circuit Court Judges (H. 4126, Rep. Neal). Currently in South Carolina there are 16 judicial circuits, with varying populations, between 1 and 3 circuit judges in each circuit, with these judges elected by joint public vote of the General Assembly. Under this proposed constitutional amendment, however, judicial circuits must be the same in number and size as districts from where State Senators are elected. (There currently are 46 State Senate districts, with each district containing approximately 76,000 residents.) Judges in each circuit would be elected by the registered voters of the respective district. Persons currently serving as circuit judges on the effective date of these provisions would continue to serve the term for which they had been elected by the General Assembly. This proposal also deletes provisions allowing the General Assembly to elect at-large circuit judges.

This proposed constitutional amendment also would prohibit a sitting member of the General Assembly, or a member of his family within the second degree, or an associate of the law firm of that legislator, from being elected to a judicial office filled by election of the General Assembly while serving in that body and for 4 years thereafter. If adopted by the General Assembly (requires two-thirds' affirmative vote of the elected members of each chamber), this proposal would be submitted to the voters for approval at the November 1996 general election.

LABOR, COMMERCE AND INDUSTRY

Ceding of Multi-Vehicle Policies to the Reinsurance Facility (H. 4005, Rep. Richardson). This bill provides that for multi-vehicle policies, 1 or more motor vehicles may be ceded to the State's Reinsurance Facility, provided the insurer identifies to the Facility and the insured which vehicles are retained and which vehicles are ceded, along with the rate level for each vehicle.

Unlawful for Special Inspector To Perform Certain Elevator Inspections (H. 4018, Rep. Cato). This bill prohibits a special inspector from performing elevator inspections under the State's Elevator Code or regulations promulgated pursuant to that Code on any elevator on which he or his employer has a current service or warranty contract.

Legislative Update, April 18, 1995

Revisions to Definition of General Contractor and Mechanical Contractor (H. 4022, Rep. Cooper). Under current law, a person is considered a "general contractor" if he undertakes or offers to undertake the construction or superintending of construction of a building, highway, etc. and the undertaking cost of that project is at least \$30,000. This bill would increase the threshold level to \$45,000, such that the person would be considered a general contractor only if the cost of the undertaking is \$45,000 or more. The bill also revises the definition of "mechanical contractor," such that a person is considered a mechanical contractor if he undertakes plumbing, heating, air conditioning, etc. and similar work and the value of the undertaking is \$30,000 or more, as currently opposed to \$17,500 or more.

Temporary Qualifications and Fees for Licensure as a Home Inspector (H. 4042, Rep. Simrill). This joint resolution establishes temporary qualifications and fees for licensure as a home inspector, as follows:

(I) Temporary Qualifications for Licensure

---Must apply to the South Carolina Residential Builders Commission, with proof that the home inspector (a) currently is certified as a building or home inspector by an organization approved by the Commission; (b) has at least 1 year of experience as a home inspector under direction and direct supervision of a licensed home inspector, residential builder, general contractor, engineer, architect, or municipal or county building inspector; and (c) has performed at least 50 residential inspections.

(II) Temporary Fees for Licensure

---Application fee, \$50; annual renewal fee, \$50; late fee for renewals, \$10 (if renewals received after July 31; with additional late renewal fee of \$20 when renewal is received more than 12 months after expiration of license); replacement fee of \$10 for lost, destroyed or mutilated license; and \$10 fee for reissuance of license because of a change requested by the licensee to any information printed on the license.

These temporary qualifications and fees for home inspector licensure would be in effect until qualifications and fees are established by regulation.

Tech Prep Participants Ineligible for Unemployment Benefits (H. 4053, Rep. McElveen). If this bill is adopted, participants in South Carolina's "Tech Prep" Program would be ineligible for unemployment compensation benefits.

HMOs to Include Opticians as Durable Medical Equipment Providers (H. 4082, Rep. Seithel). This bill requires a health maintenance organization (HMO) to include opticians as durable medical equipment providers in the organization.

Legislative Update, April 18, 1995

**MEDICAL, MILITARY, PUBLIC AND
MUNICIPAL AFFAIRS**

County Veterans Affairs Officers Must Actually Be Veterans (H. 3979, Rep. Tucker). Current law requires the Director of the Division of Veterans' Affairs, subject to recommendation of a county's legislative delegation, to appoint a county veterans affairs officer for each county in South Carolina. This bill requires a county veterans affairs officer to actually be a veteran. For purposes of that requirement, a "veteran" is any ex-service citizen discharged under other than dishonorable conditions and who served in any branch of the military or naval service of the United States.

Implementation of Community-Based Adolescent Pregnancy Prevention Programs (H. 4034, Rep. Shissias). This bill requires the South Carolina Human Services Coordinating Council (hereafter called "council") to develop and coordinate implementation of community-based programs and projects relating to the problem of adolescent pregnancy. Before allocating funds for these projects, the council must review recommendations of a newly-established Adolescent Pregnancy Prevention Committee (to be discussed shortly) and recommend funding priorities to the Department of Health and Human Services.

The bill requires the council to appoint members of a newly-established Adolescent Pregnancy Prevention Committee, with the committee consisting of council members and representatives from a number of community and other organizations/concerns (e.g., representatives from corporate community, religious community, United Way of South Carolina). Members of this committee would serve 4-year terms, except for student members, who would serve 2-year terms.

The council must establish and administer a program to distribute funds appropriated for these pregnancy prevention projects, with the projects to be undertaken as pilot projects, serving as successful models for replication in areas across the State with statistically high incidences of adolescent pregnancy, premature births, and infant mortality. The council also must evaluate at least yearly such projects funded as a result of this program. Funding for these projects is to be provided by the Department of Health and Human Services, with local agencies or organizations permitted to apply to the Department for allocation of funds to operate these prevention projects. Each application must contain an analysis of adolescent pregnancy and related problems in the locality the project would serve and how the project, over at least 5 years, would attempt to prevent the problems. Furthermore, each application must contain a project budget. Projects applying for first-year funding must, among other things, have realistic/specific goals for prevention of adolescent pregnancy; emphasize, when possible, abstinence; and use materials which are factually correct. Each project must have a board of advisors composed of members from outside

Legislative Update, April 18, 1995

the sponsoring agency of the project and demonstrate its ability to attract financial support from sources other than the State.

The bill also lists criteria (such as level of community support and adequacy of proposed resources to meet project objectives) that must be applied in selecting projects for first-year funding. If the project selected for first year funding continues to meet requirements of this act, then funding for the project (to the extent funds are available) continues for an additional 4 years. The level of funding the council provides to approved projects would be as follows---first year, 80 percent of project's annual budget, but not exceeding the maximum award established by the Department; in the second year, 90 percent of state funds awarded the first year, with that figure dropping to 75 percent in the third year, 65 percent in the fourth year, and 50 percent in the fifth year. The council must determine the maximum annual amount to be awarded to any 1 project, and as prevention project grant funds decrease, each project must maintain its original budget level, less the amount expended for start-up costs.

Domestic Violence (H. 4088, Rep. Cobb-Hunter). Under these provisions, when a law enforcement officer receives a report of domestic violence, such information must be reported to DSS (Department of Social Services). DSS must treat the case as a suspected report of abuse and must investigate, as in other reports of abuse, to determine if the child has been harmed.

Law Enforcement Officials To Provide Funeral Escorts (H. 4114, Rep. Hines). This bill requires sheriffs (in unincorporated areas of a county) and municipal law enforcement departments (in incorporated areas of a county) to provide appropriate police escorts for funeral processions in their respective areas, when requested by the funeral home director supervising the funeral.

WAYS AND MEANS

Determination of Fair Market Value of Motor Vehicles (H. 4007, Rep. Keyserling). This bill requires that for purposes of valuation of property for taxation, the fair market value for motor vehicles licensed by the Department of Revenue and Taxation must be based on values derived from a nationally-recognized publication of vehicle valuations, with the value not allowed to exceed 95 percent of the prior year's value.

Appropriations for Vietnam Veterans Organization (H. 4047, Rep. Rogers). This bill requires any appropriations made by the General Assembly for use of veterans' organizations to include an appropriation in a like amount and under the same conditions for use of the Vietnam Veterans of America, Inc. The appropriation made to Vietnam veterans of America, Inc. must be in addition to amounts previously appropriated for other veterans' organizations.

Legislative Update, April 18, 1995

Revised Definition of Economic Impact Zones (H. 4056, Rep. McTeer). This bill revises the definition of "economic impact zone," as pertains to the Economic Impact Zone Community Development Act of 1995 (Section 2 of the recently signed into law Enterprise Zone Act of 1995, H. 3534), so as to include the total area of South Carolina.

Economic Impact Zones (H. 4057, Rep. McTeer). This bill provides that for purposes of the Economic Impact Zone Community Development Act of 1995, "economic impact zone" also includes any portion of a county or municipality located within 50 miles of the boundaries of a site under control of the U.S. Department of Energy used for the production of fissionable material for America's nuclear weapons programs.

Statewide Referendum on Higher Gasoline Tax (H. 4080, Rep. Worley). This bill requires a statewide referendum to be held at the November 1996 general election on the question of raising the tax on gasoline, motor fuels and motor carriers by 5 cents a gallon for providing additional funding for construction, improvement and maintenance of the state highway system. If the referendum is approved, then revenue from this additional 5 cent tax must be credited to a special account for the Department of Transportation and apportioned amount counties in the following manner:

(a) one-third (1/3) in the ratio the land area of the county bears to the total land area of South Carolina;

(b) 1/3 in the ratio which the average daily population of the county bears to the average total daily population of South Carolina, as determined by the Budget and Control Board's Office of Research and Statistics; and

(c) 1/3 in the ratio which the sales and use tax collected in the county bears to the total sales and use tax collected in the State, as shown by official records of the Department of Revenue and Taxation.

The Department of Transportation must expend each county's apportionment of these funds for construction, improvement and maintenance of the state highway system in the respective county.

If voters approve this additional 5 cent/gallon tax in 1996, then these additional taxes would go into effect on July 1, 1997.

State Employees May Apply for Certain Vacancies (H. 4120, Rep. Moody-Lawrence). This bill allows a classified State employee to apply for a vacancy in another classified position where there is a vacancy if the person is otherwise qualified for the position. If that employee is selected to fill the position, then he must be paid the salary which was advertised for the position.

Income Tax Deduction for Certain Health Insurance Premiums (H. 4121, Rep. Moody-Lawrence). This bill allows a South Carolina public school teacher who retired before 1970 to claim an income tax deduction for payments for health insurance premiums, to the extent that the premiums are not deductible for federal income tax purposes. If adopted, these provisions would apply to taxable years beginning after 1995.

Legislative Update, April 18, 1995

WITHOUT REFERENCE

Establishment of Joint Legislative Committee on Children and Families (H. 4030, Rep. Fair). This joint resolution establishes a Joint Legislative Committee on Children and Families, the purpose of which is to study issues relating to children and families as may be requested or directed by the General Assembly or any individual legislator. This committee would consist of 9 members---3 being House members (appointed by the Speaker); 3 being Senators (appointed by the Lieutenant Governor); and 3 being appointed by the Governor. Members would serve at the pleasure of their respective appointing authority.

Please continue to next page for listing of "skeleton" bills

Legislative Update, April 18, 1995

(2) SKELETON BILLS

The following bills are "skeleton bills", basically bills with only a title (i.e., containing no substantive language) which are introduced to meet the April 14 deadline for bill introductions in the House.

Reorganization of Department of Transportation (H. 3980, Rep. Kelley). This bill would eliminate the Commission of the Department of Transportation and instead re-establish the Department as a cabinet agency managed by a director appointed by the governor. This bill has been referred to the Education and Public Works Committee.

Radon Research (H. 4013, Rep. Tucker). This bill would provide for research, detection, control and abatement of Radon by the Department of Health and Environmental Control. This bill has been referred to the Medical, Military, Public and Municipal Affairs Committee.

Reserve Fund (H. 4021, Rep. Stille). This bill would establish a reserve fund for the contingency of the federal government's declaration of bankruptcy, so that South Carolina would have sufficient funds set aside and in reserve when that declaration of bankruptcy occurs. This bill has been referred to the Ways and Means Committee.

Regulation of Certain Fish (H. 4029, Rep. Rhoad). This bill would further provide for the regulation of Shad, Herring and Sturgeon. This legislation has been referred to the Agriculture, Natural Resources and Environmental Affairs Committee.

Contempt Powers of Magistrates (H. 4038, Rep. Klauber). This bill would further provide for the contempt powers of magistrates. This bill has been referred to the Judiciary Committee.

Study of Selling Advertising Space on School Buses (H. 4040, Rep. Cromer). This joint resolution directs the State Department of Education to conduct a study on the feasibility of selling advertising space on school buses. This measure has been referred to the Education and Public Works Committee.

Mechanical Contractors Board (H. 4049, Rep. Bailey). This bill would establish a Mechanical Contractors Board. This legislation has been referred to the Education and Public Works Committee.

Profits of Nonprofit Eleemosynary Corporations Not Subject to Taxation (H. 4073, Rep. Fleming). This bill exempts from taxation profits made by nonprofit eleemosynary corporations which are used for purposes of the organization. This bill has been referred to the Ways and Means Committee.

Legislative Update, April 18, 1995

Establishment of Board to Administer and Oversee Activities Performed by Certain Private Towing Services (H. 4091, Rep. Elliott). This bill would establish a board to administer and oversee activities performed by private towing services that assist the Department of Public Safety with motor vehicle accidents and other emergencies occurring on the state's highways. This legislation was referred to the Education and Public Works Committee.

Omnibus Foster Care Reform Act of 1995 (H. 4098, Rep. Kelley). This bill would enact the Omnibus Foster Care Reform Act of 1995. This bill has been referred to the Judiciary Committee.

Patriots Point Authority (H. 4099, Rep. Hallman). This bill would place the Patriots Point Development Authority under the jurisdiction, supervision and administration of the State Department of Parks, Recreation and Tourism. This legislation has been referred to the Ways and Means Committee.

Weapons In Schools (H. 4115, Rep. Townsend). This bill would require school districts to notify local law enforcement when a student is disciplined for carrying a weapon on school grounds. This bill has been referred to the Education and Public Works Committee.

Civil Action Against a Public Body for Retaliation against an Employee (H. 4117, Rep. S. Whipper). This bill would allow an employee to institute a jury, instead of a nonjury, civil action against a public body for retaliation against the employee.